

**In the High Court of Punjab and Haryana, Chandigarh.**

**Civil Revision No. 6308 of 2007**

Date of Decision: 7.12.2007

Nirmal Kaur and Others

...Petitioners

Versus

Kulwant Singh

...Respondent

**CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL**

Present: Mr. Pawan Kumar, Advocate  
for the petitioners.

**RAJESH BINDAL, J.**

In the present petition, the defendants have sought to challenge two orders passed by learned Courts below i.e. February 10, 2007, rejecting the application for recasting of issues and order dated November 17, 2007 dismissing the application for amendment of written statement.

There is no good reason given as to why the order for recasting of issues having been passed on February 10, 2007, was not challenged for nearly ten months and as to why the common revision petition challenging two different orders raising two different claims is sought to be filed. Be that as it may, still the petition is considered on merits.

The dispute arises in a suit for permanent injunction filed by the respondent/plaintiff restraining the petitioners/defendants from interfering in any manner in ownership and possession of the factory under the name and style of M/s Rajpura Paper and Board Mills, Chandigarh Road, Rajpura, and also for restraining them from alienating in any manner, 1/4<sup>th</sup> share out of the total land measuring 9 bighas 10 biswas, as mentioned in the plaint.

As far as the claim regarding recasting of issues is concerned, it is not disputed that in the suit which was filed way back in January 2003, at the first instance the issues were framed on November 6, 2003. Thereafter, on application of the respondent/plaintiff, the same were recasted vide order dated February 8, 2005. This application was contested by the petitioners/defendants. Still the petitioners/defendants did not feel aggrieved

against the order passed by learned trial Court on the application for recasting of issues by the respondent/plaintiff and the present application was filed at quite a later stage for recasting of issues. Once the petitioners/defendants did not challenge the order passed by learned trial Court recasting the issues on the application by the respondent/plaintiff at a later stage, no such grouse can be permitted to be raised by the petitioners/defendants for recasting of issues. Accordingly, I do not find any merit in this submission made by learned counsel for the petitioners. While upholding the order passed by learned trial Court on February 10, 2007, the petition on that account is dismissed.

As far as the prayer regarding amendment of written statement is concerned, it would be appropriate to mention that the suit was filed way back in January 2003. After the filing of written statement, the issues were framed in November 6, 2003. A plea sought to be raised is that the document dated April 30, 1985, as is relied upon by the respondent/plaintiff is a forged and fictitious document. In case, it is sought to be pleaded that the document was forged and fictitious, the same was well within the knowledge of the respondent/plaintiff on the date of filing of the written statement and the same cannot be said to have come to his knowledge after the filing thereof. The amendment is sought to be made at a stage when the evidence of respondent/plaintiff is already over. This Court had already directed vide order dated January 9, 2007 passed in Civil Revision No. 3090 of 2004 for disposal of the suit within one year. Even otherwise, learned trial Court found that plea regarding forgery has already been raised by the petitioners/defendants in para 8 of the written statement.

With these facts on record, I do not find any justification for permitting the petitioners/defendants for amendment of written statement at this stage.

Accordingly, no illegality is found in the impugned order passed by learned trial Court and his claim to that extent is also rejected.

In view of my above discussions, this petition is dismissed.

**(Rajesh Bindal)**  
**Judge**

**December 7, 2007**  
**“DK”**